UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,651	01/30/2001	Lawrence G. Bahler	111972.125	1017

7590	01/15/2004

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EXAMINER
HIRL, JOSEPH P

ART UNIT	PAPER NUMBER
2121	9

DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>24 October 2003</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1,3-15,20 and 22</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1,3-15,20 and 22</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

    a) ☐ The translation of the foreign language provisional application has been received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

1.	This Office Action is in response to an AMENDMENT entered October 24, 2003 for the patent application 09/772,651 filed on January 30, 2001.

2.	The First Office Action of July 28, 2003 is fully incorporated into this Final Office Action by reference.

3.	The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

4.	Examiner's Opinion: Based on the revised claims, the Examiner conducted a new search to establish the prior art of Fujimoto et al, U.S. Patent 5,893,057 which is now applied to the applicant's claims. Fujimoto represents an extensive voice recognition system with cited applications and includes the work of Furui (Digital Voice Processing) incorporated by external reference. Based on MPEP 706.07(a), the Examiner's action is final and proper.

Status of Claims

5.   Claims 1, 3, 5, 8, 9, 10, 13, 14, 20 and 22 are amended. Claims 2, 16-19, 21 and

23 are cancelled. Claims 1, 3-15, 20 and 22 are pending.

Response to Arguments

5.   The cancellation of claims 16-19 related to the Restriction is acknowledged.

6.   The rejection of claims 1-15 under 35 USC 101 remains. Simply stated, claims

1-15 involve abstract methodology which is not tangible embodied.

7.   Applicant's arguments filed on October 24, 2003 related to Claims 1, 3-15, 20

and 22 have been fully considered but are not persuasive.

In reference to Applicant's argument:

In contrast to Mostow, which discloses a reading tutor that does not use, or even consider, a user's voice characteristic data, claim I of the present invention recites "storing voice characteristic data of the predetermined recipient," and "comparing the voice characteristic data to the accepted audio input to determine if the accepted audio input substantially matches the voice characteristic data." For at least this reason, Mostow does not anticipate the claimed invention.

In further contrast to Mostow, the claimed invention is directed to a method for confirming that a predetermined recipient of an information-bearing notification has received and read the notification." (Claim 1, emphasis added). Mostow does not teach or suggest, let alone disclose, anything with regard to a predetermined recipient. Accordingly, Mostow does not suggest or disclose "storing voice characteristic data of the predetermined recipient," as recited in the claimed invention. Still further in contrast to Mostow in this regard, the claimed invention transmits a confirmation to the sender if the accepted audio "substantially matches the voice characteristic data." In contrast, Mostow does not all consider voice characteristic data, for any purpose. For at least these reasons, Mostow does not anticipate the claimed invention.

Examiner's response:

Claims as originally presented, did not require "storing voice characteristic data

of the predetermined recipient," and hence the prior art of Mostow applied. Applicant is

reminded that Paragraph 3 above applies to the manner and extent to which the

Examiner reviews the application. The concept of a predetermined recipient is

embodied in the October 24, 2003 amendments to the claims. The concept of

comparison is addressed in the Abstract of Mostow.   As indicated in the Examiner's

Opinion, the prior art of Mostow has now been replaced with the prior art of Fujimoto et

al that anticipates the pending amended claims.   Each claim that is pending and the

appropriate prior art references are addressed below.

Claim Rejections - 35 USC § 102

8.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public
> use or on sale in this country, more than one year prior to the date of application for patent in the United
> States.

9.   Claims 1, 3-15, 20 and 22 are rejected under 35 U.S.C. 102(b) as being

anticipated by Fujimoto et al (U.S. Patent 5,893,057, referred to as Fujimoto).

Claims 1, 20, 22

Fujimoto anticipates storing voice characteristic data of the predetermined

recipient (Fujimoto, col 4, lines 58-67; col 5, lines 1-6); receiving the information-

bearing notification from a sender of the notification (Fujimoto, col 5, lines 32-34; col 2,

lines 14-18; Examiner's Note (EN): paragraph 3 above applies; the predetermined word

or words represent information-bearing notification that had to come from a sender such as a central computer communicating with an ATM); presenting the information-bearing notification, including a presenting a word sequence, to the predetermined recipient (Fujimoto, paragraph 3 above applies; col 5, lines 32-34; col 2, lines 14-18; EN: the predetermined word or words represent information-bearing notification that had to come from a sender such as a central computer communicating with an ATM); accepting an audio input in response to presenting the word sequence (Fujimoto, col 5, lines 32-42); determining whether the accepted audio input includes the predetermined recipient speaking the presented word sequence (Fujimoto, col 5, lines 37-42); comparing the voice characteristic data to the accepted audio input to determine if the accepted audio input substantially matches the voice characteristic data (Fujimoto, col 5, lines 37-42); and if the accepted audio [includes the recipient speaking] input matches the presented word sequence and substantially matches the voice characteristic data, transmitting a confirmation to the sender of the notification (Fujimoto, col 5, lines 37-42).

Claim 3

Fujimoto anticipates wherein presenting the word sequence to the predetermined recipient includes presenting a graphical representation of the word sequence (Fujimoto, col 5, lines 32-34; col 2, lines 14-18; EN: paragraph 3 above applies; the predetermined word or words represent information-bearing notification that had to come from a sender such as a central computer communicating with an ATM; to one of

ordinary skill in the art, ATM machines are specialized computers with speakers, microphones and monitors or screens).

Claim 4

Fujimoto anticipates presenting the graphical representation of the word sequence includes presenting said graphical representation on a display (Fujimoto, col 5, lines 32-34; col 2, lines 14-18; EN: paragraph 3 above applies; the predetermined word or words represent information-bearing notification that had to come from a sender such as a central computer communicating with an ATM; to one of ordinary skill in the art, ATM machines are specialized computers with speakers, microphones and monitors or screens).

Claim 5

Fujimoto anticipates presenting the word sequence to the predetermined recipient includes presenting an audible representation of the word sequence (Fujimoto, col 5, lines 27-32; EN: this of course would be the voice characteristic pattern stored in unit 5 of Fig. 1; such audible representation is used by unit 7 to establish speaker recognition).

Claim 6

Fujimoto anticipates presenting the audible representation of the word sequence includes playing a stored audio recording of the word sequence (Fujimoto, col 5, lines 27-32; EN: this of course would be the voice characteristic pattern stored in unit 5 of Fig. 1; such audible representation is used by unit 7 to establish speaker recognition and would be accessed and utilized (played) in unit 7 of Fig. 1).

Claim 7

Fujimoto anticipates presenting the audible representation of the word sequence

includes applying a speech synthesis algorithm to the word sequence to form the

audible representation (Fujimoto, col 5, lines 27-32; EN: this of course would be the

voice characteristic pattern stored in unit 5 of Fig. 1; such audible representation is used

by unit 7 to establish speaker recognition and would be accessed and utilized (played)

in unit 7 of Fig. 1; storage of the voice characteristics would represent synthesis

concept).

Claim 8

Fujimoto anticipates presenting the audible representation of the word sequence

includes transmitting the audible representation over a telephone network and accepting

the audio [response] input includes receiving the audio response over the telephone

network (Fujimoto, col 2, lines 14-18; EN: such computer networks are known to one of

ordinary skill in the art to function with the telephone backbone system).

Claim 9

Fujimoto anticipates determining whether the accepted audio input includes the

predetermined recipient speaking the word sequence includes applying a speech

recognition algorithm to the accepted audio input (Fujimoto, col 5, lines 22-42).

Claim 10

Fujimoto anticipates applying the speech recognition algorithm includes

computing a resulting word sequence from the audio input and determining whether the

audio input includes the predetermined recipient speaking the word sequence includes

comparing the resulting word sequence to the word sequence of the notification.

(Fujimoto, col 5, lines 22-42; computers are providing the implementation).

Claim 11

Fujimoto anticipates applying the speech recognition algorithm includes time-

aligning the word sequence of the notification and the audio input (Fujimoto, col 5, lines

22-42; EN: this of course is axiomatic since the analysis will start with the audio input

which is the starting time of the analysis).

Claim 12

Fujimoto anticipates applying the speech recognition algorithm includes

computing a match score characterizing a similarity between the word sequence and

the audio input (Fujimoto, col 9, lines 66-67; col 10, lines 1-21).

Claim 13

Fujimoto anticipates determining whether the audio input includes the

predetermined recipient speaking the word sequence includes comparing the match

score with a threshold score(Fujimoto, col 9, lines 66-67; col 10, lines 1-21).

Claim 14

Fujimoto anticipates accepting the audio input includes accepting a plurality of

segments of the audio input each associated with a different part of the word sequence

of the notification, and wherein determining whether the accepted audio input includes

the predetermined recipient speaking the word sequence includes determining whether

each of the plurality of segments of the audio input includes the predetermined recipient

speaking the associated part of the word sequence (Fujimoto, col 1, lines 50-67).

Claim 15

Fujimoto anticipates the word sequence includes presenting each of the different

parts of the word sequence in turn and accepting the audio input associated with that

part before presenting another of the different parts (Fujimoto, col 5, lines 22-42; EN:

the audio input is developed in series and is presented to unit 7 as series data; it is

axiomatic that the t_0 data is indeed t_0 data and will be processed in the appropriate

manner...one cannot receive t_1 data prior to or concurrent with t_0 data... t_1 data comes

into being only after the initiation of t_0 data...one must process t_0 data before t_1 data).

Conclusion

10.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

11.   A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

12.   The prior art of record and not relied upon is considered pertinent to applicant's

disclosure.

Miyazawa, U.S. Patent 5,794,204

Mark, U.S. Patent 5,825,871

13.   Claims 1, 3-15, 20 and 22 are rejected.

Correspondence Information

14.   Any inquiry concerning this information or related to the subject disclosure

should be directed to the Examiner, Joseph P. Hirl, whose telephone number is

(703) 305-1668. The Examiner can be reached on Monday – Thursday from

6:00 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the

Examiner's supervisor, Anil Khatri can be reached at (703) 305-0282.

Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks,

Washington, D. C. 20231;

or faxed to:

    (703) 746-7239 (for formal communications intended for entry);

or faxed to:

    (703) 746-7290 (for informal or draft communications with notation of

"Proposed" or "Draft" for the desk of the Examiner).

Hand-delivered responses should be brought to:

    Receptionist, Crystal Park II

    2121 Crystal Drive,

    Arlington, Virginia.

Joseph P. Hirl

January 8, 2004

RAMESH PATEL
PRIMARY EXAMINER